

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
AT MARTINSBURG**

**ALICE YOHO,**

**Plaintiff,**

**v.**

**CIVIL ACTION NO. 3:05CV42  
(BROADWATER)**

**JO ANNE B. BARNHART,  
Commissioner of Social Security,**

**Defendant.**

**ORDER ADOPTING REPORT AND RECOMMENDATION**

On this day the above styled case came before the Court for consideration of the Report and Recommendation of Magistrate Judge John S. Kaull, dated May 19, 2006. The parties did not file objections to the Report and Recommendation.

The Court, after reviewing the above, is of the opinion that the Magistrate Judge's Report and Recommendation should be and is hereby **ORDERED** adopted.

For the reasons stated in the Magistrate Judge's Report and Recommendation, the Court **ORDERS** that the Defendant's Motion for Summary Judgment<sup>1</sup> is **DENIED**. The Court **ORDERS** that the relief sought in Plaintiff's Brief in Support of her Claim for Relief<sup>2</sup> is **GRANTED**. It is further **ORDERED** that the Commissioner's decision under sentence four of 42 U.S.C. §405(g) and §1383(c)(3) is **REVERSED**. This action is hereby **REMANDED** to the Commissioner for further proceedings consistent and in accord with the Magistrate Judge's Report and Recommendation and

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<sup>1</sup> Document No. 9.

<sup>2</sup> Document No. 8.

this matter shall be **STRICKEN** from the active docket of this Court.

It is so **ORDERED**.

The Clerk is directed to transmit true copies of this Order to the Plaintiff and all counsel of record herein.

**DATED** this 1<sup>st</sup> day of September 2006.

  
W. CRAIG BROADWATER  
UNITED STATES DISTRICT JUDGE